

REMARKS:

In the foregoing amendments, claim 1 was amended to correct editorial matters. Claims 5 and 6 were amended to include additional structural limitations along the lines shown in the drawings of this application. For example, the circular disk defined in claim 5 is shown in Fig. 3, and the impeller defined in claim 6 is shown in Fig. 3. Claim 11 was allowed. Claims 1, 5-10 and 12 remain in the application for consideration by the examiner. A formal allowance of all these claims is respectfully requested for at least the following reasons.

The Official action objected to claims 5 and 6 under 37 C.F.R. §1.75, because these claims do not further limit claim 1 from which they depend. The Official action stated that claims 5 and 6 set forth additional functions of the mixing means, but do not set forth any additional structural limitations. For this reason, the Official action concluded that claims 5 and 6 do not further limit the invention defined in claim 1. In the foregoing amendments, structural limitations were included in claims 5 and 6. Applicant respectfully requests of the examiner reconsider and withdraw the objection to claims 5 and 6.

Claims 1, 5-10 and 12 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Official action stated that the limitation in these claims of "the spacer having a length in a longitudinal direction longer than the diameter of the small hole" is

not described in the specification. Applicant respectfully submits that the drawings in the present application, such as Fig. 4, support this limitation. Any person skilled in the art viewing Fig. 4 would understand that the first spacer 65 has a length in the longitudinal direction longer than the diameter D of the small hole. For such reasons, applicant respectfully submits that Fig. 4 provides a written description of this limitation.

This matter was briefly discussed with Examiner Sorkin in a telephone interview on January 12, 2006. At this time, the examiner suggested that the undersigned address the issue that "proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale." This issue is discussed in M.P.E.P. §2125. This section of the M.P.E.P. discusses the use of drawings as prior art and acknowledges that drawings can be relied upon for what they would reasonably teach one of ordinary skill in the art. *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977).

The courts have held that the drawings alone may be sufficient to provide the "written description of the invention" required by §112, first paragraph. *Vas-Cath Inc. v. Mahurkar*, 19 USPQ2d 1111 (Fed. Cir 1991). See also *KangaROOS U.S.A., Inc. v. Caldor, Inc.*, 228 USPQ 32 (Fed. Cir. 1985) and *In re Berkman*, 209 USPQ 45 (CCPA 1981). Applicant respectfully submits that Fig. 4 of the present application shows that the spacer 65 has a length in a longitudinal direction longer than the diameter "D" of the small hole 64A as

would be understood by any person skilled in the art. Applicant is not relying on Fig. 4 to establish a precise dimension, i.e. something measured by millimeters, or precise relative dimensions. In contrast, applicant respectfully submits Fig. 4 shows spacer 65 has a length in a longitudinal direction longer than the diameter "D" of the small hole 64A, and thus supports this limitation in present claim 1.

Applicant respectfully submits that while patent drawings are usually not drawn to scale, they may nevertheless be used to establish relative sizes and relationships between the various components which are clearly depicted therein. See, e.g., *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1565, 19 USPQ2d 1111, 1118 (Fed. Cir. 1991), *In re Mraz*, 455 F.2d 1069, 1072, 173 USPQ 25, 27 (CCPA 1972), *In re Heinle*, 342 F.2d 1001, 1007, 145 USPQ 131, 136 (CCPA 1965) and *In re Wolfensperger*, 302 F.2d 950, 959, 133 USPQ 537, 544 (CCPA 1962). Given that the diameter of the small hole is very small (i.e., approximately between 0.5 -2 mm as described in applicant's specification), and the fact that Fig. 4 shows the first spacer 65 is significantly longer than the diameter of the hole (something like 25 times longer), applicant respectfully submits that one of ordinary skill in the art would have appreciated that Fig. 4 shows the relationship that the spacer has a length in a longitudinal direction longer than the diameter of the small hole as set forth in claim 1. Therefore,

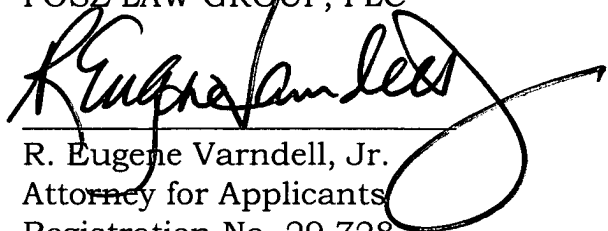
applicant respectfully requests that the examiner reconsider and withdraw this rejection.

Claims 1, 5-10 and 12 were rejected on the 35 U.S.C. §112, second paragraph, as being vague and indefinite. In the foregoing amendments, applicant's claim 1 was amended to more precisely define applicant's invention. Applicant respectfully submits that claim 1, as well as the claims which depend thereon, particularly point out and distinctly claim the subject matter regarded as the invention within the meaning of 35 U.S.C. §112, second paragraph. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

At least for the foregoing reasons, a formal allowance of claims 1 and 5-10 and 12, together with allowed claim 11, is respectfully requested. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,  
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